

AMENDED IN SENATE APRIL 21, 2003

SENATE BILL

No. 849

Introduced by Senators Torlakson and Alpert

February 21, 2003

~~An act relating to taxation.~~ *An act to add Section 1936.2 to the Civil Code, relating to rental vehicle transaction fees, and declaring the urgency thereof, to take effect immediately.*

LEGISLATIVE COUNSEL'S DIGEST

SB 849, as amended, Torlakson. Rental vehicle transaction fees.

~~The~~

(1) Existing law regulates the contents of vehicle rental agreements used by businesses that rent passenger vehicles to the public, as specified. Existing law, the Vehicle License Fee (VLF) Law, also establishes, in lieu of any ad valorem property tax upon vehicles, an annual license fee for any vehicle subject to registration in this state in the amount of 2% of the market value of that vehicle, as specified. The VLF Law offsets this amount by 67.5% for vehicle license fees with a final due date on or after July 1, 2001.

~~This bill would state the intent of the Legislature to enact a program to allow~~ *require a rental company to collect from renters an amount that would be calculated by the Department of Motor Vehicles, as specified, to reimburse rental companies for the difference between the vehicle license fee rate that was in effect on January 1, 2003, and any increase to that rate that subsequently takes effect.*

(2) Under existing law, perjury is a felony punishable by imprisonment in the state prison, as specified.

This bill would require certain information submitted to the Department of Motor Vehicles on behalf of a rental car company to be

made verified under penalty of perjury. By expanding the definition of a crime, the bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

(4) *The bill would declare that it is to take effect immediately as an urgency statute.*

Vote: ~~majority~~ ^{2/3}. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. It is the intent of the Legislature to enact a~~
2 ~~program to allow a rental company to collect from renters an~~
3 ~~amount that would reimburse rental companies for the difference~~
4 ~~between the vehicle license fee rate that was in effect on January~~
5 ~~1, 2003, and any increase to that rate that subsequently takes effect.~~

6
7 *SECTION 1. Section 1936.2 is added to the Civil Code, to*
8 *read:*

9 *1936.2. (a) For the purposes of this section, the definitions*
10 *set forth in Section 1936 shall apply, as well as the following*
11 *definitions:*

12 *(1) "Department" means the Department of Motor Vehicles.*

13 *(2) "Rental car" or "rental vehicles" means a passenger*
14 *vehicle that is offered for rent by a rental company for use by a*
15 *renter and that is registered in this state.*

16 *(3) "Rental transaction" means that portion of an agreement*
17 *to rent a rental vehicle that is subject to taxation under the Sales*
18 *and Use Tax Law (Part 1 (commencing with Section 6001) of*
19 *Division 2 of the Revenue and Taxation Code), or any successor*
20 *to that law.*

21 *(4) "Vehicle license transaction fee" means the fee to be*
22 *collected from each renter on each transaction that is set at a rate*
23 *calculated so that rental car companies doing business in this state*
24 *will recapture from their renters, in the aggregate on an annual*
25 *basis, the difference between the vehicle license fee in effect on*

1 January 1, 2003, and any higher rate of vehicle license fee
2 subsequently in effect. During the initial period of this, section's
3 operation, "annual" means the period commencing on the
4 effective date of this section and ending on December 31, 2004.

5 (5) "Reporting period" means the calendar year.

6 (6) "Initial period" means the time beginning with the effective
7 date of this act ending with December 31, 2004.

8 (7) "Aggregate reimbursable vehicle license fees" means the
9 difference between the vehicle license fee paid at the time of
10 registration or renewal and the vehicle license fee calculated at the
11 rate in effect on January 1, 2003, for all rental cars registered or
12 renewed by all rental car companies during the reporting period.

13 (b) Nothing in this section affects a rental company's
14 requirement to register and pay registration fees and vehicle
15 license fees on all applicable rental vehicles in its fleet.

16 (c) Notwithstanding Section 1936 or any other provision of law,
17 a rental company shall impose a vehicle license transaction fee to
18 be collected from the renter on each rental transaction, that shall
19 be separately stated and charged on the rental agreement, at the
20 amount established pursuant to subdivision (d).

21 (1) The vehicle license transaction fee shall be advertised,
22 quoted, and charged in the same manner that an airport customer
23 facility charge is required to be advertised, quoted, and charged
24 pursuant to Section 1936, as those provisions read on January 1,
25 2003.

26 (2) Notwithstanding any other provision of law, including, but
27 not limited to, Part 1 (commencing with Section 6001) to Part 1.7
28 (commencing with Section 7280), inclusive, of Division 2 of the
29 Revenue and Taxation Code, the fees collected pursuant to this
30 section shall not be subject to sales, use, or transaction taxes.

31 (d) (1) (A) The rate for the vehicle license transaction fee
32 shall be determined by dividing aggregate reimbursable vehicle
33 license fees paid for original and renewal vehicle license fees
34 during the reporting period by aggregate rental car revenue for all
35 rental car companies during the reporting period. If the data and
36 resulting calculations indicate that the rate should be changed, the
37 department shall establish a new rate for the balance of the
38 reporting period in which that determination can be made.

1 (B) Annually, no later than January 31 of the year following the
2 reporting period, each company shall report to the department the
3 following information regarding the reporting period:

4 (i) Total vehicle license fees paid for all rental cars at time of
5 original and renewal registration.

6 (ii) Total rental car revenue, excluding all optional products
7 and services, subject to sales tax.

8 (iii) Total vehicle license transaction fees collected from
9 customers.

10 (C) Information required under subparagraph (B) to be filed by
11 January 31, 2005, shall include information for the entire initial
12 period.

13 (2) Notwithstanding subparagraph (A) of paragraph (1), for
14 the initial period, the rate for the vehicle license fee shall be as
15 follows:

16 (A) If the vehicle license fee, including any offsets to that fee,
17 is a sum equal to 1.5 percent of the market value of the vehicle, the
18 vehicle license transaction fee shall be 2.14 percent.

19 (B) If the vehicle license fee is 2 percent of the market value, the
20 vehicle license transaction fee shall be 3.39 percent.

21 (3) (A) Within 30 days following submission of the information
22 pursuant to subparagraph (B) of paragraph (1), the department
23 may adjust the vehicle license transaction fee, if the adjustment
24 will make the rate more consistent with the intent of the definition
25 of "vehicle license transaction fee." The adjusted rate shall take
26 effect not less than 60 days following the announcement of the
27 department's determination.

28 (B) An adjustment, if any, shall be based on information
29 submitted, under penalty of perjury, by each rental company.

30 The information submitted by each company shall be kept
31 confidential by the department, although aggregated information
32 that does not reveal the company or companies that contributed to
33 the aggregated information may be disclosed pursuant to the
34 Information Practices Act of 1977 (Chapter 1 (commencing with
35 Section 1798) of Title 1.8).

36 (C) The department may impose a reasonable fee on rental
37 companies to reimburse the state for the cost of implementing this
38 section.

39 SEC. 2. No reimbursement is required by this act pursuant to
40 Section 6 of Article XIII B of the California Constitution because

1 *the only costs that may be incurred by a local agency or school*
2 *district will be incurred because this act creates a new crime or*
3 *infraction, eliminates a crime or infraction, or changes the penalty*
4 *for a crime or infraction, within the meaning of Section 17556 of*
5 *the Government Code, or changes the definition of a crime within*
6 *the meaning of Section 6 of Article XIII B of the California*
7 *Constitution.*

8 *SEC. 3. This act is an urgency statute necessary for the*
9 *immediate preservation of the public peace, health, or safety*
10 *within the meaning of Article IV of the Constitution and shall go*
11 *into immediate effect. The facts constituting the necessity are:*

12 *The vehicle license fee rate may be increased during calendar*
13 *year 2003, and the purposes of this act will not be fully*
14 *accomplished unless this act goes into effect on or before that time.*

